

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

WP(C).No. 31789 of 2007(H)

OS.432/1999 of I ADDL.SUB COURT, THRISSUR
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PETITIONER:

UNNI @ MADHAVAN NAIR,
AGED 60 YEARS, PENSIONER,
S/O KOMBRATH JANAKI AMMA,
VENKIDANGU AMSOM & DESOM,
CHAVAKKAD TALUK.

BY ADV. SRI.RENJITH THAMPAN

RESPONDENTS:

1. PANKAJAKSHI AMMA,
D/O KOMBRATH JANAKI AMMA,
VENKIDANGU AMSOM & DESOM,
CHAVAKKAD TALUK.
2. RAJALAKSHMI,
D/O PANKAJAKSHMI AMMA, -DO-
3. SANTHOSH KUMAR,
S/O PANKAJAKSHI AMMA, -DO-
4. MINI @ SOUDAMINI,
D/O PANKAJAKSHI AMMA, -DO-
5. KUTTAN @ KUTTIKRISHNAN,
S/O JANAKI AMMA, RESIDING AT
2ND FLOOR, ARCHANA SECTOR 17,
VASHI, NEW MUMBAI-400703.

6. VISALAKSHI, D/O JANAKI AMMA,
8/62, CHEMBAKA, R B METHA MARG,
GATKOOPPAR EAST, MUMBAI- 400077.

7. ANIYAN @ RAMANKUTTY,
S/O KOMBRATH JANAKI AMMA,
VENKIDANGU AMSOM @ DESOM,
CHAVAKKAD TALUK.

8. BALARAMAN,
S/O LATE KALYANIKUTTY AMMA & GRANDSON OF
KOMBRATH JANAKI AMMA, MADAKKAVU VEEDU,
NEAR TRIPRAYAR TEMPLE, NATTIKA DESOM & VILLAGE,
CHAVAKKAD TALUK.

9. DHANYA, -DO-

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.31789 of 2007

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Dated this the 30th day of October, 2007.

JUDGMENT

This Writ Petition is filed challenging the order of the Subordinate Judge, Thrissur in I.A.No.435 of 2007 in O.S.No.432 of 1999. The petition is filed under Section 151 of C.P.C. to stay O.S.No.432 of 1999 till the disposal of the appeal, A.A.No.22 of 2003 by the Land Reforms Appellate Authority. The court below granted the prayer. The decision of this Court reported in **Korh Chacko** v. **Mathew** - 1995(2) K.L.T. 883 deals with such a situation. Admittedly, Section 10 of C.P.C. will apply only to stay a later suit till the adjudication of former suit. Most probably knowing that difficulty, an application has been preferred under Section 151 of C.P.C. This Court in the above said decision, held that when there is a special provision in the Code of Civil Procedure for dealing with the contingencies of two suits instituted under Section 10, recourse to the inherent powers of

Section 151 is not justified. This decision has not been brought to the notice of the court below and I am disposing of the matter at the admission stage by setting aside the order and remit back the case to the Subordinate Judge's Court to consider the matter afresh in the light of the above decision after hearing both sides.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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